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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,803	02/12/2002	Song Ci	3COM-3742.BCG.US.P	7142
7590	03/10/2005		EXAMINER	
WAGNER, MURABITO & HAO LLP			AVELLINO, JOSEPH E	
Third Floor			ART UNIT	PAPER NUMBER
Two North Market Street				2143
San Jose, CA 95113			DATE MAILED: 03/10/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/074,803 <i>[Signature]</i> Examiner Joseph E. Avellino	CI ET AL. Art Unit 2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 February 2002.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 12 February 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

1. Claims 1-20 are pending in this examination; claims 1, 8, and 15, independent.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 12 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 12 recites the limitation "the random processing noise" which lacks antecedent basis. Correction is required.

5. Claim 14 recites "said random processing noise", "said bit error rate", and "said predicting of said optimum frame length", all of which lack antecedent basis. Correction is required. For examination purposes, the claim will be read as "the Kalman filter uses random processing noise and bit error rate".

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-7, 15, 17, and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Webster (USPN 5,307,351).

7. Referring to claim 1, Webster discloses in a computer network (Figure 1), a method for predicting an optimum transmission frame length, comprising:
  - assessing transmission channel quality in said computer network (i.e. determining number of retries required to transmit data) (col. 4, lines 8-31);
  - calculating an optimum length for said transmission frame (Figure 4, ref. 126);
  - adjusting the length of said transmission frame (Figure 4, ref. 126-132; col. 8, lines 22-38);
  - transmitting said transmission frame of said adjusted length (Figure 4, ref. 124; col. 8, lines 22-38); and
  - assessing the quality of said transmission of said transmission frame (i.e. process repeats every time a frame is sent (Figure 4, ref. 100).

8. Referring to claim 3, Webster discloses said assessing of said transmission channel quality is achieved by measuring the bit error rate of said transmission channel (i.e. approximate the degree of impairment) (col. 4, lines 8-12).

9. Referring to claim 4, Webster discloses measuring said bit error rate of a previous transmission (i.e. frames already sent) (col. 4, lines 15-25).

10. Referring to claims 5 and 6, Webster discloses the calculating is accomplished in a computer which is a dedicated transmitting device (i.e. data communication elements or DCE's 10 and 12) (col. 3, lines 9-33).

11. Referring to claim 7, Webster discloses the assessing the quality of transmission is accomplished by measuring the bit error rate of said transmission (i.e. last n frames tested) (Figure 4. ref. 108; col. 6, lines 33-48).

12. Claims 15, 17, and 19-20 are rejected for similar reasons as stated above. Furthermore Webster discloses a header section (Figure 2, ref. 24, 28), a data field (Figure 2, ref. 30), and an error checking field (Figure 2, ref. 32), and that the optimum length for transmission is calculated by reference to transmission bit error rate (i.e. indirectly) (col. 4, lines 8-12), and to random processing noise (the frame will be rejected based on how "noisy" the line is) (col. 3, lines 60-63; col. 4, lines 15-20).

### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2, 8-12, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webster in view of Johnson et al. (USPN 6,463,074) (hereinafter Johnson).

15. Referring to claim 2, Webster discloses the invention substantively as described in claim 1. Webster does not disclose the network is implemented as a wireless Ethernet. In analogous art, Johnson discloses another computer network method for predicting an optimum transmission frame length, which discloses the network is implemented as a wireless Ethernet (col. 5, lines 1-5). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Webster with Johnson since Webster discloses the communication medium 18 can be any communication link over which data may travel (col. 3, lines 20-25). This would lead one of ordinary skill in the art to search for other communication mediums for networks, eventually finding Johnson and its novel frame transmission method involving a wireless Ethernet.

16. Claims 8-12, and 16 are rejected for similar reasons as stated above.

Claim 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Webster in view of Dziong (USPN 6,625,155).

17. Webster discloses the invention substantively as described in claim 17. Webster does not specifically disclose the use of a Kalman filter to predict the optimum length of the frame. Dziong discloses using a Kalman filter to filter noise and error rate data in order to calculate actual system performance measures such as cell losses (e.g. abstract). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Dziong with Webster, since the estimation algorithm of Webster would benefit by the use of a Kalman filter in order to optimally estimate the mean and variance values of the previously sent error frames (which include noise and error rates) and furthermore provide statistics to determine more enhanced optimal frame length size by removing error spikes from the calculation.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webster in view of Dziong, and further in view of Johnson.

18. Webster in view of Dziong disclose the invention substantively as described in claim 18. Webster in view of Dziong do not specifically disclose the use of a wireless

Ethernet, however Johnson disclose using a wireless Ethernet (see rejection for claim 8). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Johnson with Webster and Dziong since Webster discloses the communication medium 18 can be any communication link over which data may travel (col. 3, lines 20-25). This would lead one of ordinary skill in the art to search for other communication mediums for networks, eventually finding Johnson and its novel frame transmission method involving a wireless Ethernet.

### ***Conclusion***

It is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art. As it is Applicant's right to continue to claim as broadly as possible their invention. It is also the Examiner's right to continue to interpret the claim language as broadly as possible. It is the Examiner's position that the detailed functionality (i.e. details regarding how the Kalman filter utilizes noise and error rates to predict the optimum frame length) that allows for Applicant's invention to overcome the prior art used in the rejection, fails to differentiate in detail how these features are unique. As it is extremely well known in the networking art as already shown by Webster and other prior arts of records disclosed, for predicting an optimum frame length as well as other claimed features of Applicant's invention. Thus, it is clear that Applicant must submit amendments to the claims in order to distinguish over the

prior art use in the rejection that discloses different features of Applicant's claim invention.

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

20. Lim et al. (USPN 6,240,099) discloses a multi-user CDMA receiver.

21. Amalfitano (USPN 6,236,647) discloses dynamic frame size adjustment and selective reject on a multi-link channel to improve effective throughput and bit error rate.

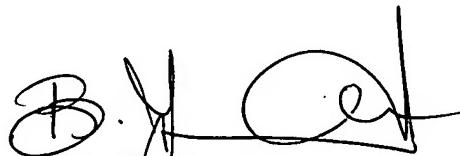
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JEA  
March 2, 2005



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PRIMARY EXAMINER